

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

LORI COMBS,

Plaintiff,

v.

BAYER HEALTHCARE
PHARMACEUTICALS INC., et al.,

Defendants.

Civil Case No. 1:18-cv-00802

JUDGE DONALD C. NUGENT

**JOINT REQUEST TO CONTINUE CASE MANAGEMENT CONFERENCE
AND SET CASE SCHEDULE, AND REPORT OF RULE 26(F) COMPLIANCE**

Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 16.3(b), Specially Appearing Defendants Bayer HealthCare Pharmaceuticals Inc., Bayer Corp., and Bayer HealthCare LLC (collectively “Bayer”) and Plaintiff Lori Combs (collectively, the “Parties”) submit the following joint statement, and, in light of their agreement regarding a schedule noted in sections 7 and 8 below, jointly request a continuance of the case management conference currently scheduled for September 10, 2018:

1. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held telephonically on February 15, 2018.

(a) The meeting was attended by counsel for both Parties, including Todd Walburg for Plaintiff, and Jennifer Greenblatt and Edward Dumoulin for Bayer.

(b) The Parties filed a report on Feb. 22, 2018 (Dkt. No. 23) in the Northern District of California that satisfied the requirements of Fed. R. Civ. P. 26(f).

(c) The Parties submit this statement as a supplement to that timely-filed report.

2. At this time, the Parties respectfully submit that exchange of initial disclosures is premature, as Plaintiff intends to amend the Complaint, and Bayer plans to move to dismiss the forthcoming First Amended Complaint in its entirety. These actions may materially affect the content of the case and the scope of disclosures, if any, that the Parties will exchange. The Parties propose that initial disclosures be exchanged within thirty (30) days of any ruling on Bayer's forthcoming motion to dismiss if any claims remain.

3. At this time, the Parties respectfully submit that designation of this case in a particular track is premature, as Plaintiff's forthcoming First Amended Complaint, and Bayer's motion to dismiss that Complaint, may materially affect the scope of issues to be adjudicated.

4. The Parties respectfully submit that this case is not suitable for ADR at this time.

5. The Parties do not consent to the jurisdiction of the United States Magistrate Judge.

6. At this time, the Parties respectfully submit that a discovery plan is premature, as Plaintiff intends to amend the Complaint, and Bayer plans to move to dismiss the forthcoming First Amended Complaint in its entirety. The parties propose that within thirty (30) days after the Court enters an Order ruling on Bayer's Motion to Dismiss, in the event any claim remains pending, the parties shall submit a joint pretrial discovery plan on all remaining discovery events.

The parties further agree to meet and confer to propose a stipulated protective order regarding confidential information and an ESI protocol at that time.

7. The Parties request the following schedule of pleading amendments and dispositive motions:

- (a) Bayer's Motion to Dismiss shall be filed no later than November 2.
- (b) Plaintiff's Opposition to Bayer's Motion to Dismiss shall be filed no later than November 16.
- (c) Bayer reserves its right to seek leave of the Court to file a reply, if needed.

In light of the Parties' agreement on the proposed schedule, the Parties request a continuance of the September 10, 2018 case management conference pending the resolution of Bayer's dispositive motion.

8. The Parties request that the deadline for Plaintiff to amend the Complaint be October 5.

9. The Parties agree to meet and confer regarding a proposed date for a next status hearing within thirty (30) days after the Court enters an Order ruling on Bayer's Motion to Dismiss, in the event any claim remains pending.

Dated: September 5, 2018

Respectfully submitted,

/s/ Brooks Cutter

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) the attorney of record for each other party on September 5, 2018 through the Court's electronic filing system and that notice of this filing will be sent to all counsel of record in this matter by operation of the Court's ECF system.

/s/ John Q. Lewis
*One of the Attorneys for Specially Appearing
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